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**IN THE**  
**United States Court of Appeals**  
**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Appellant,*

vs.

FRANK KARL SELBY,  
STEVEN ARTHUR CLARK,  
PAUL EVANS CARBONE,  
CAROL NALANI PALMIERI, and  
ELAINE ROSE FODOR,  
*Appellees.*

JUL 31 1968

No. 22,719

On Appeal From An Order Of  
The United States District Court  
For the District of Arizona

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**REPLY BRIEF OF APPELLANT**

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EDWARD E. DAVIS  
United States Attorney  
For the District of Arizona

FILED

JO ANN D. DIAMOS  
Assistant United States Attorney  
*Attorneys for Appellant*

JUL 25 1968

W. B. LUCK, CLERK



<i>Denton v. United States</i> , 9th Cir. 1962, 310 F.2d 129 .....	2
<i>King v. United States</i> , 9th Cir. 1965, 348 F.2d 814 .....	2
<i>Leeks v. United States</i> , 9th Cir. 1966, 356 F.2d 470 .....	2



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Appellees have filed a reply brief alleging there was no probable cause. Appellees also allege that the Customs Inspector Ramsey did not form the intent to search until the cars were on their way back to the Border (see page 5, lines 13-14, of Appellees' Brief).

What Ramsey stated was:

"Q. (By Lester) It is a fact, is it not, Mr. Ramsey, you intended to search that camper again, no matter what answer was given to you by Mr. Selby or any of the parties in that vehicle.

"A. I intended to look the camper over when it came back, yes." (RT 100 L 2-6)

Customs Agent Hugh Marshall had information on all five Appellees except Carol Palmieri (RT 140 L 7-9).

The District Court ruled that the stopping was not illegal, but that the return to the Border was (RT 158 L 15-24).

The Court went on to say that the return to the Border was not for the purpose of searching the car (RT 159 L 14-16), thus overlooking the testimony of Ramsey as quoted.

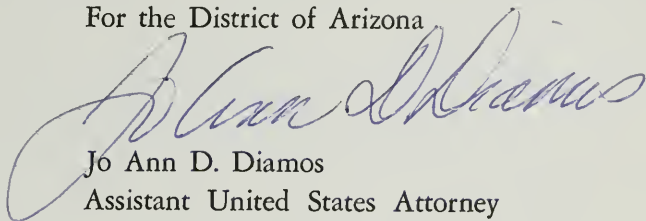
(The Government raised border search as well as probable cause in its Memorandum (RC Item 4) and at the hearing, but did not raise it in its Opening Brief. If the search was a border search, the test becomes reasonableness of the search, not probable cause for the search, *Denton v. United States*, 9th Cir. 1962, 310 F.2d 129, and in addition it must be established that the search was conducted before the contents could be changed after re-entry into the country. *King v. United States*, 9th Cir. 1965, 348 F.2d 814; *Leeks v. United States*, 9th Cir. 1966, 356 F.2d 470.)

It is respectfully submitted that the agents had probable cause to believe that the camper contained contraband and that the Volkswagen bus' occupants' and the camper's occupants' peculiar actions after crossing the border and their denial of the need to register constituted probable cause.

It is respectfully submitted the Order of the United States District Court granting the Motion to Suppress should be reversed.

Respectfully submitted,

EDWARD E. DAVIS  
United States Attorney  
For the District of Arizona

A handwritten signature in blue ink, appearing to read "Jo Ann D. Damos", is written over the typed name and title of the Assistant United States Attorney.

Jo Ann D. Damos  
Assistant United States Attorney  
*Attorneys for Appellant*

Three copies of the Reply Brief of Appellant mailed this

24 day of July, 1968, to:

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